

**REPORT OF THE FORFEITURE
TRANSPARENCY TASK FORCE**

**REPRESENTATIVE
MARK BAKER**

**MISSISSIPPI
HOUSE OF REPRESENTATIVES
2016**

Report of the Forfeiture Transparency Task Force

House Bill 1410, Regular Session 2016, created the Forfeiture Transparency Task Force composed of the following thirteen (13) members:

(a) The Chairman of the Judiciary "A" Committee of the House of Representatives, or a designee. Any person designated to serve in the absence of the Chairman shall be appointed in writing, and no other person may serve as a designee;

(b) The Chairman of the Judiciary "A" Committee of the Senate, or a designee. Any person designated to serve in the absence of the Chairman shall be appointed in writing, and no other person may serve as a designee;

(c) The Chairman of the Judiciary "B" Committee of the House of Representatives, or a designee. Any person designated to serve in the absence of the Chairman shall be appointed in writing, and no other person may serve as a designee;

(d) The Chairman of the Judiciary "B" Committee of the Senate, or a designee. Any person designated to serve in the absence of the Chairman shall be appointed in writing, and no other person may serve as a designee;

(e) The President of the Mississippi Prosecutors Association;

(f) The President of the Mississippi Sheriffs' Association;

(g) The President of the Mississippi Association of Chiefs of Police;

(h) The State Defender of the Office of State Public Defender;

(i) The Director of the Mississippi Justice Institute at the Mississippi Center for Public Policy;

(j) The Director/Managing Attorney of the Mississippi Office of the Southern Poverty Law Center;

(k) The Director of the Mississippi Bureau of Narcotics;

(l) The Chief Justice of the Supreme Court of Mississippi, or a designee. Any person designated to serve in the absence of the Chief Justice shall be appointed in writing, and no other person may serve as a designee; and

(m) The Mississippi Attorney General, or a designee. Any person designated to serve in the absence of the Attorney General shall be appointed in writing, and no other person may serve as a designee.

The duties of the task force as set out in subsection (3) of Section 3, House Bill 1410, Regular Session 2016, were to:

- (a) Review all civil asset forfeiture laws and make recommendations to the Legislature for amendments to Mississippi civil asset forfeiture laws that protect innocent property owners;

- (b) Assure greater transparency; and

- (c) Provide greater due process while ensuring that assets used or obtained through unlawful practices are removed from the possession of criminals.

After meetings conducted during July and August 2016, and careful deliberation, the task force publishes this report as its final report to the Mississippi Legislature, including goals and potential legislative action, to satisfy the reporting requirement in subsection (5) of Section 3, House Bill 1410, Regular Session 2016.

Report of the Asset Forfeiture Task Force

The following report outlines the task force's goals for analyzing current state policy on civil forfeiture and its proposed recommendations for legislative consideration.

- **Goal:** Create a new state-built website that would contain information on forfeitures, such as the circumstances and disposition of the property, to be maintained by the Mississippi Bureau of Narcotics (MBN). Create reporting guidelines to be used by law enforcement regarding every seizure. The guidelines would require law enforcement to account for the location of the seizure, any criminal prosecution actions taken against the property owners, and the value and disposition of the property at issue.

Legislation: An online reporting requirement would be included in the forfeiture statutes. A website would be maintained by the Mississippi Bureau of Narcotics (MBN). Require upload of petitions, notice of forfeitures, orders and dispositions within a certain time after filing. From an information standpoint, the information that is currently required for a petition or administrative notice is sufficient. A representation should also be included that the seizure warrant was obtained in the manner and within the time required.

Certification of compliance should also be required with these provisions in order to apply for any state or federal grant (i.e., "Click It or Ticket," DUI, etc.). To this end, local law enforcement would be required to self-certify compliance with the reporting requirements for law enforcement agencies before being eligible to apply for state or federal grants (i.e., "Click It or Ticket," etc.).

- **Goal:** Create a new warrant system that would require the county or circuit judge with jurisdiction regarding forfeiture to issue a seizure warrant within seventy-two (72) hours of receiving notice of an impending seizure.

Legislation: Require law enforcement, in every instance of a seizure, to obtain a seizure warrant within seventy-two (72) hours of any seizure of assets, excluding weekends and legal holidays, from a county or circuit judge having jurisdiction. Failure to obtain such within the time provided would require immediate return of seized assets.

- **Goal:** Require all seizures to be prosecuted by either the local district attorney or the Mississippi Bureau of Narcotics.

Legislation: Require the district attorney having jurisdiction or the MBN to prosecute all seizures. If the local law enforcement has an issue with the district attorney pursuing the same, then the local law enforcement shall have an alternate with the MBN. District attorneys and MBN would retain discretion to pursue, and if declined by both, the seized assets shall be returned within a specified period of time.

Respectfully submitted this the 21st day of Aug 2016.



Representative Mark Baker, Chair



Senator Sean Tindell, Vice Chair